

# AMNESTY INTERNATIONAL

## Public Statement

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### **Afghanistan: NATO member states must uphold human rights standards through the establishment of body to investigate alleged violations of Afghanistan's human rights laws, empowered to provide restitution.**

On the occasion of the NATO heads of state and government summit in Riga, Latvia on 28/29 November 2006, Amnesty International is calling on NATO member states to ensure justice for civilians killed in the course of military operations, and for those detainees tortured or ill treated in Afghan custody.

The NATO-led deployment of the International Security Assistance Force (ISAF) to Afghanistan has been mandated in a series of United Nations Security Council Resolutions. NATO-led ISAF is now the principal security force, and shares resources with the US-led Operation Enduring Freedom. ISAF operates a rotating command system, and from February 2007, it will be under US command, replacing the current UK leadership.

Amnesty International is particularly concerned that:

- o The legal basis for the presence of ISAF's forces in Afghanistan places them outside Afghan law and beyond the effective reach of justice in Afghanistan as well as in their own countries;
- o Aerial bombardments carried out as part of ISAF military operations have, as acknowledged by ISAF commanders, resulted in the killing of civilians in the course of specific engagements. These attacks may have failed to discriminate between civilian and military targets in breach of international humanitarian law. Such operations have also contributed to the forced displacement of up to 90,000 people who have fled their homes because of the violence;
- o Detention procedures currently used by ISAF, which require the transfer of detainees to the custody of Afghan security forces within 96 hours, may result in the torture or ill-treatment of Afghan nationals. Amnesty International has for many years raised concerns about the use of torture and ill-treatment by Afghan security forces, including the National Security Directorate (NSD). Amnesty International is concerned that the NSD enjoys effective impunity, on account of the weak judicial system, lack of adequate training and high levels of corruption in the country.

Urgent steps are needed to ensure that Afghans are accorded levels of human rights guarantees currently beyond their reach. NATO members should ensure that ISAF complies fully with international humanitarian and human rights law in the course of its operations, and should cooperate with UNAMA and the Afghanistan Independent Human Rights Commission in doing so.

Amnesty International therefore urges NATO member states, with their Afghan partners and the United Nations Assistance Mission to Afghanistan (UNAMA), to take the lead in the formation of a joint body, or mechanism empowered to investigate claims that the rights of people in Afghanistan have been violated in the course of ISAF operations; and to ensure the prosecution of those responsible and redress for the victims, where such violations are found to have occurred, in keeping with Afghanistan's obligations as a state party to the International Covenant on Civil and Political Rights (ICCPR).

Article 3 of the ICCPR ensures that any person whose rights or freedoms are violated shall have an effective remedy, even if the violation has been committed by persons acting in an official capacity. It also ensures that any person claiming such a remedy shall have his right determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of Afghanistan, and to develop the possibilities of judicial remedy. The joint body should ensure that the relevant authorities shall enforce such remedies when granted.

The joint body should provide reparation for any civilians found to be adversely affected by ISAF military operations, which may entail drawing on the Trust Fund called for in UN Security Council Resolution 1386 (2001). Reparation should include:

- **Restitution**, for instance release (of detainees and prisoners), restoration of legal rights and return of property;
- **Compensation**, including for physical or mental harm, lost opportunities, harm to reputation or dignity and legal and medical costs;
- **Rehabilitation**, including medical and psychological care, legal and social services, and social reintegration;
- **Satisfaction**, including cessation of continued violations, disclosure of the truth (without causing further harm), search for information as to the whereabouts or fate of persons who have been subjected to enforced disappearance or killed, and an apology for the wrongs done;
- **Guarantees of non-repetition**, including steps to ensure effective civilian control of military and security forces and that all civilian and military proceedings abide by international standards of due process, fairness and impartiality, and strengthening the independence of the judiciary.

**ENDS ./.**

For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566 or visit our website at <http://www.amnesty.org>

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